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|--|-------------|----------------------|---------------------|------------------|
| 09/900,684   | 07/06/2001  | Robert William Nabb  | 13DV13928           | 6738             |
| 31450  | 7590        | 12/22/2005           | EXAMINER            |                  |
| MCNEES WALLACE & NURICK LLC<br>100 PINE STREET<br>P.O. BOX 1166<br>HARRISBURG, PA 17108-1166 |             |                      | ROSEN, NICHOLAS D   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3625                |                  |

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/900,684 | <b>Applicant(s)</b><br>NABB ET AL. |  |
|                              | <b>Examiner</b><br>Nicholas D. Rosen | <b>Art Unit</b><br>3625            |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1, 3, and 5-20 have been examined.

#### ***Claim Objections***

Claims 1, 3, and 5-11 are objected to because of the following informalities: In the seventh and eighth lines of claim 1, "wherein the first client computer being accessible by a user" should be either "wherein the first client computer is accessible by a user" or "the first client computer being accessible by a user". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 5, 6, 7, 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumberg et al. (U.S. Patent Application Publication 2003/0140315) in view of official notice. As per claim 1, Blumberg discloses a system for submitting and monitoring copy reproduction order requests, the system comprising: a database to store information on copy reproduction requests, wherein the stored information comprises order information on copy reproduction requests and status information on copy reproduction requests (paragraphs 42, 43, and 116, the database of appropriate information following inherently from the user's ability to determine the status of his job); a first client computer communicating with the database, the first client computer being accessible by a user (paragraphs 60, 61, 116, and 179-183); and an application for submitting and monitoring copy reproduction requests accessible on the first client computer by a user, the application comprising: means for entering order information on a copy reproduction request by a user (paragraphs 42, 43, and 116); and means for storing the entered order information on a copy reproduction request in the database (paragraph 116). Blumberg discloses at least one file having material to be copied by the copy reproduction service provider, and means for uploading the at least one file having material to be copied to a database (paragraphs 42, 43, 135, 142-147). Blumberg further discloses retrieving status information from the database on a copy reproduction request submitted by a user (paragraph 116). Blumberg does not expressly disclose an application for doing this on the user's client computer (the user

might perhaps "query the order management software" by making telephone calls to a voicemail system, or even sending postcards with queries), but official notice is taken that it is well known to communicate with software on a server using an application on a client. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the application to comprise means for retrieving status information from the database on a copy reproduction request submitted by a user, for the obvious advantage of enabling the user to conveniently communicate with the order management software.

Blumberg does not disclose a second client computer communicating with the database to access the stored information on copy reproduction requests in the database, the second client computer being accessible by a copy reproduction service provider, but official notice is taken that second clients for enabling service providers to access information from their servers are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for there to be such a second client computer, for the obvious advantage of enabling persons at the copy reproduction service provider to access information needed in doing their work.

Blumberg does not disclose an additional application accessible by a copy reproduction service provider on the second client computer, but official notice is taken that it is well known for clients to have applications, and in particular, to review information, download files, and update status information (the determination of status information disclosed in paragraph 116 of Blumberg would not make sense unless

status information were updated as the status of orders changed). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for an additional application on the second client to comprise means for reviewing order information, means for downloading the at least one file, and means for updating status information; for the obvious advantages of reviewing order information to carry out a reproduction job, or should any questions arise; and of downloading files to be reproduced, examined, or otherwise worked on; and the necessary advantage of updating status information.

As per claim 3, Blumberg discloses providing delivery information for the copy reproduction service provider to distribute completed copies, and management software for delivery, implying stored information comprising distribution information and means for uploading the distribution information (paragraphs 32-38, 45, 49, 74, and 117).

As per claim 5, Blumberg discloses a server connected to a first client computer, the server computer comprising a storage device storing the application for submitting and monitoring copy reproduction requests (paragraphs 42-56, 60-62, 116, 174, 178-180, etc.). Blumberg does not disclose an additional server computer connected to the second client computer, the additional server computer comprising a storage device to store the additional application for processing copy reproduction requests. However, not only are servers storing data and programs well known in general, but official notice is taken that it is well known for information systems to comprise additional servers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to comprise an additional

server, for the obvious advantages of storing and carrying out the additional application, providing redundancy in case of difficulty with the first server, and providing additional security, by storing data not available on the first and publicly available server.

As per claim 6, Blumberg does not disclose means for a copy reproduction service provider to provide authentication information to access the additional application for processing copy reproduction requests stored on the additional server computer, but official notice is taken that it is well known to provide authentication information (e.g., a password) to access an application, database, computer, etc. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the system comprise means to provide authentication information to access the additional application for processing copy reproduction requests, for the obvious advantage of enabling access by authorized persons while preventing access by unauthorized persons, with the consequent ills of theft of services, release of confidential information, etc.

As per claim 7, Blumberg discloses an intranet from which the database can be accessed (paragraphs 27 and 41-44). Blumberg does not disclose that the additional application is accessed from the additional server computer on an Extranet, but official notice is taken that extranets are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the additional application to be accessed from the additional server on an Extranet, for the obvious advantage of enabling access by authorized users within one system or at authorized external locations.

As per claim 8, Blumberg does not disclose that the stored information on copy reproduction requests in the data is stored as binary large objects, but official notice is taken that binary large objects (BLOBs) are well known, and commonly used to store image data, among other data objects. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the stored information to be stored as binary large objects, for the obvious advantage of storing the information by suitable means.

As per claim 9, Blumberg does not disclose means for changing, by a user, the status information on a copy reproduction request in the database, but official notice is taken that it is well known for users to change status information on orders (e.g., to request that an order be made urgent, or to report on an order being received, or missing, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the application to include means for changing, by a user, the status information on a copy reproduction request in the database, for the obvious advantage of enabling users to make such reports or requests.

As per claim 10, Blumberg does not disclose that the application comprises means for editing, by a user, the stored information on copy reproduction requests in the database, and means for filtering, by a user, the stored information on copy reproduction requests in the database, but official notice is taken that enabling users to edit and filter information in databases is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of



applicant's invention for the application to include means for editing and filtering the stored information by a user, for the obvious advantages of enabling users stored information (e.g., to make alterations to documents to be printed, or to the terms for printing them), and to readily find relevant files (filtering).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blumberg and official notice as applied to claim 1 above, and further in view of Jones (U.S. Patent 6,224,387) and the anonymous article, "Internet Printing Solution Digitally Enables Printing Service Bureaus," hereinafter "Internet Printing Solution." Blumberg does not expressly disclose that the means for entering order information on a copy reproduction request by a user comprises a copy order forms (although this could be considered to be implied by Figure 6 and paragraphs 64-99), but official notice is taken that forms for orders are well known. Hence, such a form would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the means to include such a form, for the obvious advantage of enabling the user to be conveniently informed of what data is to be entered, and given opportunity to enter it.

Blumberg does not expressly disclose a wide format order form and a CD-ROM reproduction order form (although Blumberg does disclose applying his system to all forms of printed matter, paragraph 29), but Jones teaches ordering a large, poster size reproduction (column 19, lines 53-65), and "Internet Printing Solution" teaches ordering reproduction on a CD-Rom (see especially paragraph beginning "Digital media jobs can include"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the means to include a wide

format order form and a CD-ROM reproduction order form, for the obvious advantages of ordering these types of reproductions.

It is noted that claims 1, 3, and 5-11 use "means for" language. Nonetheless, they are not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Claims 12, 13, 14, 15, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumberg et al. (U.S. Patent Application Publication 2003/0140315) in view of official notice. As per claim 12, Blumberg discloses submitting and monitoring copy reproduction order requests, including: a database to store information on copy reproduction requests, wherein the stored information comprises order information on copy reproduction requests and status information on copy reproduction requests (paragraphs 42, 43, and 116, the database of appropriate information following inherently from the user's ability to determine the status of his job); and an application for submitting and monitoring copy reproduction requests accessible by a user, the application comprising: means for entering, by a user, order information on a copy reproduction request (paragraphs 42, 43, and 116); and means for storing the entered order information on a copy reproduction request in the database (paragraph 116).

Blumberg further discloses retrieving status information from the database on a copy reproduction request submitted by a user (paragraph 116). Blumberg does not expressly disclose an application for doing this on the user's computer (the user might perhaps "query the order management software" by making telephone calls to a voicemail system, or even sending postcards with queries), but official notice is taken that it is well known to communicate with software on a server using an application on a client. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the application to comprise means for retrieving status information from the database on a copy reproduction request submitted by a user, for the obvious advantage of enabling the user to conveniently communicate with the order management software.

Blumberg does not disclose an additional application for processing copy reproduction requests, the additional application accessible by a copy reproduction service provider, but official notice is taken that it is well known for clients to have applications, and in particular, to review information, download files, and update status information (the determination of status information disclosed in paragraph 116 of Blumberg would not make sense unless status information were updated as the status of orders changed). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for an additional application on the second client to comprise means for reviewing order information, means for downloading the at least one file, and means for updating status information; for the obvious advantages of reviewing order information to carry out a reproduction job, or

should any questions arise; and of downloading files to be reproduced, examined, or otherwise worked on; and the necessary advantage of updating status information.

Blumberg does not expressly disclose a computer program product embodied on a computer readable and executable medium for submitting and monitoring copy reproduction order requests, but official notice is taken that it is well known for computers to have computer program products embodied on computer readable and executable media, and Blumberg certainly discloses computers, and in particular discloses applets (e.g., paragraphs 59-62). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have such a computer program product, for the obvious advantage of causing the server and clients to carry out their disclosed functions.

As per claim 13, Blumberg discloses at least one file having material to be copied by the copy reproduction service provider, and means for uploading the at least one file having material to be copied to a database (paragraphs 42, 43, 135, 142-147); the at least one file having distribution information for the copy reproduction service provider to distribute completed copies, and management software for delivery, implying stored information comprising distribution information and means for uploading the distribution information (paragraphs 32-38, 45, 49, 74, and 117).

As per claim 14, Blumberg does not disclose that the means for downloading the order information comprises for downloading the at least one file having material to be copied from the database and means for downloading the at least one file having distribution information; however, given downloading of the file, and given material to be

copied, and distribution information (which Blumberg discloses; see above), means for downloading the order information would presumptively comprise means for downloading at least one file comprising this information.

As per claim 15, Blumberg does not disclose means for a copy reproduction service provider to provide authentication information to access the additional application for processing copy reproduction requests stored on the additional server computer, but official notice is taken that it is well known to provide authentication information (e.g., a password) to access an application, database, computer, etc. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the system comprise means to provide authentication information to access the additional application for processing copy reproduction requests, for the obvious advantage of enabling access by authorized persons while preventing access by unauthorized persons, with the consequent ills of theft of services, release of confidential information, etc.

As per claim 16, Blumberg does not disclose that the application comprises means for editing the stored information on copy reproduction requests in the database by a user, and means for filtering the stored information on copy reproduction requests in the database by a user, but official notice is taken that enabling users to edit and filter information in databases is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the application to include means for editing and filtering the stored information by a user, for the obvious advantages of enabling users stored information (e.g., to make alterations

to documents to be printed, or to the terms for printing them), and to readily find relevant files (filtering).

As per claim 17, Blumberg does not disclose means for changing, by a user, the status information on a copy reproduction request in the database, but official notice is taken that it is well known for users to change status information on orders (e.g., to request that an order be made urgent, or to report on an order being received, or missing, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the means for editing to include means for changing, by a user, the status information on a copy reproduction request in the database, for the obvious advantage of enabling users to make such reports or requests.

It is noted that claims 12-17 use "means for" language. Nonetheless, they are not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Claims 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumberg et al. (U.S. Patent Application Publication 2003/0140315) in view of official notice. As per claim 18, Blumberg discloses a method of submitting a

copy reproduction order request to a copy reproduction service provider, the method comprising the steps of: accessing, by a user, a copy reproduction application from a computer network (paragraphs 40-44, 65-76, etc.); selecting, by a user, a copy reproduction service to be provided by a copy reproduction service provider using the copy reproduction application (paragraphs 9, 10, and 67-82); completing, by a user, a copy reproduction order request for the selected copy reproduction service using the copy reproduction application (paragraphs 40-44, 65-76, and 99); storing the completed copy reproduction order request in a database, the completed copy reproduction order request including at least one file having material to be copied by the copy reproduction service provider (paragraphs 42, 43, 116, 135, and 142-147); and implies accessing, by the copy reproduction service provider, a plurality of copy reproduction order requests from the database using a service provider application (paragraph 116, querying the order management software implies accessing the orders on file). Blumberg does not expressly disclose downloading from the database, by the copy reproduction service provider the at least one file for making copies of the material to be copied, but does disclose making copies at appropriate printers in various locations (paragraphs 34 and 42), and official notice is taken that downloading files is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to download the at least one file, for the obvious advantage of making it available to the printer for printing.

Blumberg discloses means for changing the order request, by a user (paragraphs 59 and 101), but does not expressly disclose that this changing includes updating the

status information in the database for a copy reproduction request; however, Blumberg does disclose a user determining the status of his request (paragraph 116), which inherently involves updating the status information, or else accurate status information could not be determined. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the changing of the order request to include updating the status information in the database, for the obvious advantage of providing accurate status information to users who seek it, as disclosed in Blumberg.

As per claim 19, Blumberg implies entering into the copy reproduction order request personal information of a user (paragraph 9, teaching of the user's name, etc., and paragraph 112, credit card information). Blumberg also discloses uploading the at least one file having material to be copied to a database (paragraphs 42, 43, 135, and 142-147).

As per claim 20, Blumberg discloses storing the completed copy reproduction order request in a file directory (paragraphs 42, 43, 116, 135, and 142-147, using the term "file directory" instead of "database"), but not transferring the completed copy reproduction order request from the file directory to the database. However, official notice is taken that it is well known to transfer files from one directory/database to another (e.g., for long storage). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to transfer the completed copy reproduction order request from the file directory to the database, for the obvious advantages of making it available for access and downloading, and of



saving space on a medium of limited storage capacity, and keeping files where there is more room.

### ***Response to Arguments***

Applicant's arguments filed October 17, 2005 have been fully considered but they are not persuasive. Applicant argues that Blumberg does not teach all elements of the invention, and disputes the validity of the conclusions drawn by Examiner from the allegedly well-known character of certain elements and procedures. The taking of official notice is in itself entirely proper, although it should be limited to facts subject to instant and unquestionable demonstration, and documentary evidence must be supplied if a taking of official notice is properly traversed (which has not been done in this case). Applicant argues that from the presence of features as individually well known in the art, it does not follow that it is obvious to combine them with Blumberg, the question being whether the invention as a whole would have been obvious.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Examiner did not learn from Applicant's disclosure that it is known to

communicate with software on a server using an application on a client, or even that second clients are well known. Furthermore, statements of motivation are provided for the incorporation of the features not disclosed by Blumberg.

As to Examiner's use of the present tense ("it is well known"), this is standard style, and not an admission that any facts were not well known at the time of Applicant's filing. In the event of a proper traversal of official notice, it would, of course, be requisite to document the known character of the fact in question by a reference predating Applicant's priority date.

Finally, with regard to claim 11, Applicant argues that there is no proper motive to combine Blumberg with the teaching of "Internet Printing Solution" regarding reproduction on a CD-ROM, since the purpose of Blumberg's invention is to view content as it will be when printed. Examiner replies that viewing audiovisual content as it will appear when viewed from a CD on which it is to be loaded is analogous art, and a reasonable extension of Blumberg's purpose.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice. It has not escaped Examiner's awareness that Applicant expresses dissatisfaction with conclusions which Examiner has drawn on the basis of official notice, but nothing in Applicant's Remarks constitutes a proper traversal of the official notice.

The Manual of Patent Examination Procedure (2144.03 (C)) states, in regard to traversal of Official Notice:

C. If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silverbrook et al. (U.S. Patent Application Publication 2005/0243373) disclose graphic design software using an interface surface.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*  
**NICHOLAS D. ROSEN**  
**PRIMARY EXAMINER**

December 20, 2005